



Billing Code: 4710-25

DEPARTMENT OF STATE

[Public Notice: 10686]

Bureau of Political-Military Affairs; Rescission of Statutory Debarment of Rocky Mountain Instrument Company Under the International Traffic in Arms Regulations

SUMMARY: Notice is hereby given that the Department of State has rescinded the statutory debarment of Rocky Mountain Instrument Company included in *Federal Register* notice of September 8, 2010.

DATES: Rescission as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Jae Shin, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 632-2107.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the Arms Export Control Act (AECA), 22 U.S.C. 2778(g)(4), prohibits the issuance of licenses or other approvals for the export of defense articles or defense services where the applicant, or any party to the export, has been convicted of violating the AECA and certain other U.S. criminal statutes enumerated in § 38(g)(1) of the AECA. In addition, § 127.7(b) of the International Traffic in Arms Regulations (ITAR) provides for the statutory debarment of any person who has been convicted of violating or conspiring to violate the AECA. As stated in this provision, it is the policy of the Department of State not to consider applications for licenses or requests for approvals involving any person who has been

statutorily debarred. Persons subject to statutory debarment are prohibited from participating directly or indirectly in any activities that are subject to the ITAR.

In June 2010, Rocky Mountain Instrument Company (“RMI”) pleaded guilty to violating the AECA. On September 8, 2010, the Department notified the public of a statutory debarment imposed on RMI pursuant to ITAR § 127.7(c) related to RMI’s criminal conviction via notice in the *Federal Register* (75 FR 54692). The notice provided that RMI was “prohibited from participating directly or indirectly in the export of defense articles, including technical data, or in the furnishing of defense services for which a license or other approval is required.” On May 9, 2016, the Department modified this statutory debarment to allow specific exceptions to the debarment of RMI without the submission of a transaction exception request as an element of the application, available to persons other than RMI but excluding persons acting for or on behalf of RMI in contravention of ITAR § 127.1(d).

In accordance with ITAR § 127.7(b) of the ITAR, reinstatement may only be approved after submission of a request by the debarred party. In response to such a request from RMI for reinstatement, the Department has conducted a thorough review of the circumstances surrounding the conviction, and has determined that RMI has taken appropriate steps to address the causes of the violations to warrant rescission of the notice of statutory debarment of RMI. Therefore, pursuant to ITAR § 127.7(b) the Department determines it is no longer in the national security and foreign policy interests of the United States to maintain the policy as applied to RMI, and the Department hereby rescinds the notice of RMI’s statutory debarment.

The Department notes that the *Federal Register* notice of debarment for RMI stated that “export privileges may be reinstated only at the request of the debarred person followed by the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by Section 38(g)(4) of the AECA. Unless export privileges are reinstated, however, the person remains debarred.” (75 FR 54693). The Department is no longer requiring that export privileges be reinstated pursuant to ITAR § 127.11 and § 38(g)(4) of the AECA prior to the rescission of statutory debarment. This change in policy recognizes that the circumstances warranting statutory debarment may be different than those warranting the revocation of export privileges. The Department may find, as it does in this instance, that the national security and foreign policy interests of the United States are not advanced by maintaining the Department-imposed ITAR § 127.7(b) prohibition on persons convicted of violating or conspiring to violate the AECA from “participating directly or indirectly in any activities that are subject to [the ITAR]” and where the debarred person may not meet the requirements of ITAR § 127.11(b) (implementing the restrictions of § 38(g)(4) of the AECA).

This notice rescinds the statutory debarment of RMI but does not provide notice of reinstatement of export privileges for RMI pursuant to the statutory requirements of § 38(g)(4) of the AECA and ITAR § 127.11. As required by the statute, the Department may not issue a license directly to RMI except as may be determined on a case-by-case basis after interagency consultations, a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law

enforcement concerns. Any determination by the Department regarding the reinstatement of export privileges for RMI will be made in accordance with these statutory and regulatory requirements and will be the subject of a separate notice. All otherwise eligible persons may engage in exports of RMI manufactured defense articles, incorporate RMI manufactured items into defense articles for export, or otherwise engage in transactions subject to the ITAR without providing prior written notification of RMI's involvement as otherwise required by ITAR § 127.1(d) and the transaction exception requirements of the *Federal Register* notice of statutory debarment (75 FR 54693).

Dated: February 4, 2019.

Andrea L. Thompson,

Under Secretary,

Arms Control and International Security,

Department of State.

[FR Doc. 2019-03595 Filed: 3/1/2019 8:45 am; Publication Date: 3/4/2019]